

Remarks

In the Office Action, claims 6 and 9 – 12 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which application regards as the invention. Claims 1 – 12 were rejected under 35 U.S.C. § 102(b) as being anticipated by Samuels, U.S. Pat. No. 6,191,363. For the reasons set forth below, Applicant respectfully traverses the above objections and rejections.

Discussion of the §112 Rejections

The examiner has rejected claims 6 and 9 – 12 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant has amended these claims and respectfully requests that this rejection be withdrawn and these claims be allowed to issue.

Discussion of the §102 Rejections

The examiner has rejected claims 1 – 12 under 35 U.S.C. § 102(b) as being anticipated by Samuels. According to the MPEP, “a claim is anticipated only if each and every element as set forth in the claim is found either expressly or inherently described in a single prior art reference.” MPEP §2131 (quoting *Verdegaal Bros. v. Union Oil Company of California*, 814 F2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1997)). Applicant respectfully submits that Samuels does not set forth each and every element as set forth in Applicant’s claims, and therefore, this rejection should be withdrawn, and the claims be allowed to issue.

Specifically, independent claims 1 and 6 require, among other elements, that the deflecting arm and the curved portion (or, in the case of claim 6, the first arm and the

second arm) “combine to provide a surface used to finish a corner produced by a floor and a wall.”

The Office Action alleges that Samuels discloses a deflecting arm (18) and a curved portion (33, 29). While Applicant does not agree with this reading of Samuels, assuming, *arguendo*, that Samuels’ elements are analogous to Applicant’s, Samuels’ deflecting arm (18) does not combine with his curved portion (33, 29) to provide a surface used to finish a corner. As seen in Fig. 1 of Samuels, top wall 18 is not exposed when Samuels’ molding is combined. Indeed, the surface used to “finish the corner produced by a floor and a wall,” as required by Applicant, is provided exclusively by Samuels’ front plate 26.

As amended, Applicant’s independent claim 9 now requires, among other elements, inward- and outward-projecting end caps. Such elements are not disclosed by Samuels.

As such, the Ryan reference does not contain each and every element of Applicant’s independent claims 1, 6 or 9. Therefore, Applicant respectfully requests that the §102(b) rejection be withdrawn and these claims be allowed to issue. Furthermore, because Applicant’s claims 2 – 5, 7 – 8 and 10 – 12 each depend, either directly or indirectly, from allowable independent claims 1, 6 or 9, each of these dependent claims is also now allowable, and Applicant respectfully requests that these claims be allowed to issue.

Conclusion

It is believed that Applicant has addressed all of the outstanding matters and it is requested that this application be granted a Notice of Allowance at the earliest possible date. Please contact the undersigned attorney if there are any questions.

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